Indian Finance Act, 1935

Passed under the procedure prescribed by Section 67B of the Government of India Act

INDIA OFFICE,
17*th July*, 1935

S. F. STEWART,
Under Secretary of State for India

Presented pursuant to the Government of India Act Section 67B (2)

Ordered by The House of Commons *to be Printed* 17*th July*, 1935

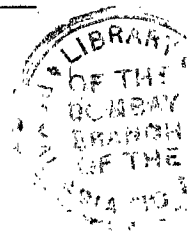

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TABLE OF CONTENTS

		PAGE
No. 1.	Text of the Indian Finance Act, 1935	3
No. 2.	Recommendations, Certification, Assent and Direction bringing the Act into operation forthwith	8
No. 3.	Despatch from the Governor General to the Secretary of State for India, dated 25th April, 1935	9
No. 4.	Telegram from the Secretary of State for India to the Governor General, dated 25th June, 1935	12

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No. 1.

INDIAN FINANCE ACT, 1935.

(*Made by the Governor General on 22nd April, 1935.*)

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930.

Whereas it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930; It is hereby enacted as follows :—

XXXII of 1934.
VI of 1898.
XVIII of 1930.

Short title and extent.

1.—(1) This Act may be called the Indian Finance Act, 1935.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Fixation of salt duty.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma or Aden, be construed as if, for the year beginning on the 1st day of April, 1935, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

XII of 1882

Amendments of the First and Second Schedules to Act XXXII of 1934.

3.—(1) In the First Schedule to the Indian Tariff Act, 1934, in Items Nos. 61 (2) and 62 (1) for the words " Five annas per ounce " in the fourth column the words " Two annas per ounce " shall be substituted.

XXXII of 1934.

(2) In the Second Schedule to the Indian Tariff Act, 1934, the heading " SKINS " together with Item No. 3 under that heading shall be omitted.

XXXII of 1934.

Inland Postage rates.

4. For the year beginning on the 1st day of April, 1935, the Schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

VI of 1898.

Income-tax and super-tax.

5.—(1) Income-tax for the year beginning on the 1st day of April, 1935, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees falling under heading A in the said Part, by one-sixth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1935, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-sixth of the amount of the rate.

XI of 1922.

(3) For the purposes of the Second Schedule " total income " means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule.

XI of 1922.

(5) For the purpose of any assessment to be made for the year ending 31st March, 1936, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1935, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of Section 48 in respect of dividends declared in the year ending 31st March, 1935, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term " previous year's rate " with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1935, on a total income equal to that on which he is assessable for the year ending 31st March, 1936.

XVIII of 1930.

Excise duty on Silver.

6. In sub-section (1) of section 3 of the Silver (Excise Duty) Act, 1930, for the words " five annas " the words " two annas " shall be substituted.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[*See section* 4.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[*See section* 7.]

Letters.

For a weight not exceeding half a tola	One anna.
For a weight exceeding half a tola but not exceeding two and a half tolas	One anna and three pies.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	One anna and three pies.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first five tolas or fraction thereof	Nine pies.
For every additional five tolas or fraction thereof in excess of five tolas	Six pies.

Registered Newspapers.

For a weight not exceeding eight tolas	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

SCHEDULE II.

[*See section* 5.]

PART I.

Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	Rate.
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500.	One and one-third pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000.	Two and two-thirds pies in the rupee.

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(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000.	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000.	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000.	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards.	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income.	Two annas and two pies in the rupee.

Part II.

Rates of Super-tax.

In respect of the excess over thirty thousand rupees of total income—

	Rate.
(1) In the case of every company—	
(*a*) in respect of the first twenty thousand rupees of such excess	*Nil.*
(*b*) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (*a*) in the case of every Hindu undivided family—	
(*i*) in respect of the first forty-five thousand rupees of such excess ...	*Nil.*
(*ii*) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(*b*) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the first twenty thousand rupees of such excess ...	Nine pies in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess ...	One anna and three pies in the rupee.
(*c*) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the next fifty thousand rupees of such excess ...	One anna and nine pies in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess ...	Two annas and three pies in the rupee.

(*iii*) for every rupee of the next fifty thousand rupees of such excess ...	Two annas and nine pies in the rupee.
(*iv*) for every rupee of the next fifty thousand rupees of such excess ...	Three annas and three pies in the rupee.
(*v*) for every rupee of the next fifty thousand rupees of such excess ...	Three annas and nine pies in the rupee.
(*vi*) for every rupee of the next fifty thousand rupees of such excess ...	Four annas and three pies in the rupee.
(*vii*) for every rupee of the next fifty thousand rupees of such excess ...	Four annas and nine pies in the rupee.
(*viii*) for every rupee of the next fifty thousand rupees of such excess ...	Five annas and three pies in the rupee.
(*ix*) for every rupee of the next fifty thousand rupees of such excess ...	Five annas and nine pies in the rupee.
(*x*) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

PART III.

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

1. The Income-tax officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made, may, within thirty days of the receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1935-36 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1934-35.

No. 2.

Recommendations to the Legislature, Certification, Assent and Direction bringing the Act into operation forthwith.

In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, I, Freeman, Earl of Willingdon do recommend to the Legislative Assembly that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, in the form hereto annexed

WILLINGDON,
Viceroy and Governor General.

The 5th April, 1935.

Whereas the Legislative Assembly has failed to pass in the form recommended by me the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, a copy of which Bill in the form recommended by me is hereto annexed;

Now, therefore, I, Freeman, Earl of Willingdon, in exercise of the power conferred by sub-section (1) of section 67B of the Government of India Act, do hereby certify that the passage of the said Bill is essential for the interests of British India.

WILLINGDON.
Viceroy and Governor General.

The 6th April, 1935.

In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, I, Freeman, Earl of Willingdon, do recommend to the Council of State that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, in the form hereto annexed.

WILLINGDON,
Viceroy and Governor General.

The 6th April, 1935.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,
President, Council of State

The 16th April, 1935.

I assent to this Bill.

WILLINGDON,
Viceroy and Governor General.

The 22nd April, 1935.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act.

WILLINGDON,
Viceroy and Governor General.

The 22nd April, 1935.

Whereas I, Freeman, Earl of Willingdon, am of opinion that a state of emergency exists which justifies the direction by me that the Indian Finance Act, 1935, being an Act made by me under the provisions of section 67B of the Government of India Act, shall come into operation forthwith:

Now, therefore, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly.

WILLINGDON,
Viceroy and Governor General.

The 22nd April, 1935.

No. 3.

Despatch to the Right Honourable Sir Samuel Hoare, Bart., G.C.S.I., G.B.E., C.M.G., P.C., M.P., His Majesty's Secretary of State for India.

No. 58, dated Simla, the 25th April, 1935.

The Indian Finance Act, 1935.

SIR,

I have the honour to forward herewith an authentic copy of the Indian Finance Act, 1935, to which I have signified my assent under clause (*b*) of sub-section (1) of section 67B of the Government of India Act. The Finance Bill was as usual introduced in the Legislative Assembly on the occasion of the presentation of the General Budget on the 28th February. The motion to take the Bill into consideration was made on the 13th

March and after an unusually protracted discussion was carried without a division on the 25th March. In the course of the detailed consideration of the clauses the following amendments were carried against Government :—

(1) An amendment reducing the rate of salt duty from Rs.1/4 per maund to 12 annas per maund involving a loss of revenue of 325 lakhs.

(2) An amendment omitting the provision made for the repeal of the export duty on skins, the result on revenue being a gain of 8 lakhs.

(3) Amendments removing the imposition of income-tax on incomes of not less than Rs.1,000 but less than Rs.2,000 per annum, the loss of revenue involved being 50 lakhs.

(4) The following amendments to the postage rates :—

(*a*) An amendment substituting one tola for half a tola as the limit of weight to be carried for the initial rate of one anna, the loss of revenue involved being 16 lakhs.

(*b*) An amendment reducing the rates for single and reply post cards from 9 pies and one and a half annas to 6 pies and one anna respectively, the loss of revenue involved being 54 lakhs.

(*c*) An amendment introducing a new initial rate of 6 pies for book packets not exceeding $2\frac{1}{2}$ tolas in weight, the loss of revenue involved being $6\frac{1}{2}$ lakhs.

2. Acquiescence in the amendments as a whole, which would have involved a net loss of revenue of $443\frac{1}{2}$ lakhs was clearly impracticable and I was therefore under the necessity of intervening with a recommendation under section 67B of the Government of India Act. The question which required and received my earnest consideration was whether I should recommend to the Assembly the making of all the amendments necessary to restore the Bill to its original form or whether I should endeavour to meet the views of the Assembly in part by acquiescing in such of the amendments carried by the Assembly as might arguably have been accepted without unbalancing the Budget to an impossible extent. I was constrained to conclude that the only amendments which could have been accepted consistently with the minimum requirements of the financial situation were the amendment omitting the provision for the repeal of the export duty on skins and the two less important amendments to the postal rates. Acceptance of the first-named amendment would have resulted in a small improvement in the revenue position but considerations of an extra-financial character led me to conclude that the amendment should none the less not be accepted. The repeal of the duty is calculated definitely to benefit the agricultural classes and I am confident that in carrying the amendment by a majority of one vote

only the Assembly failed accurately to reflect the attitude of public opinion on this question. The benefit to the tax-payer—and particularly to the poorer tax-payer—which would have accrued from the acceptance of either or both of the two minor amendments to the postal rates would have been insignificant, while the acceptance of either or both of the amendments would have seriously retarded the restoration to solvency of the Post and Telegraph Services. On the merits, therefore, I had no doubt that the interests of the country would best be served by the restoration in all respects of the terms of the Bill as originally introduced, and while in different circumstances I would readily have recognised the possibility that the political advantages of deferring in part to the Assembly's verdict might well outweigh the practical disadvantages involved in the acceptance of amendments which I believed to be on the merits mistaken, I could not but feel that on the present occasion this consideration was deprived of most if not all of its normal weight by the indisputable fact that the Opposition in the Assembly had for the most part been concerned merely to defeat and embarrass Government and had accorded little or no impartial consideration to the merits either of the proposals originally embodied in the Bill or of their own amendments to those proposals.

3. I decided, therefore, to recommend all the amendments necessary for the restoration of the Bill to its original form and I briefly explained my reasons for this decision in the Message which I communicated to the Assembly along with my recommendation. The text of this Message was as follows:—

> "The Finance Bill as introduced contained provisions designed to reduce taxation to the maximum extent possible within our existing resources and incidentally to provide some benefit to the agriculturist by removing a bar on the profitable sale of one of his products. The Bill was the counterpart of the policy represented in the allocation of a non-recurrent surplus for the development of roads, broadcasting, civil aviation and above all for the improvement of the economic position of the villages in this country. So far as the Finance Bill is concerned, the Amendments made by the Legislative Assembly would, if accepted, amount to a serious mutilation of the Bill. They entail a loss of revenue of from four to five crores and so involve budgeting for a heavy deficit and all the deleterious results to India's credit which have invariably followed an unsound procedure of this character. The amendments cannot therefore be accepted.
>
> After anxious consideration I have decided to recommend to the Assembly that the Bill be restored to the form in which it was originally introduced. I have considered whether it is possible to accept some of the financially less important

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amendments made but one of these is definitely opposed to the interests of the agriculturist and the others are minor postal concessions which, though affording little or no benefit to the poor, would more than double the estimated deficit on the Posts and Telegraphs Departments and postpone the restoration of solvency in that service. Every one of the remaining amendments involves a loss of at least half a crore of revenue and so must be ruled out so far as the current year is concerned.'

4. In pursuance of my recommendation the Member in charge of the Bill moved an amendment to restore the rate of salt duty to Rs.1/4 per maund. The amendment was defeated by 64 votes to 41 and the President in due course furnished a certificate in accordance with sub-rule (5) of Rule 36B of the Indian Legislative Rules to the effect that the Assembly had failed to pass the Bill in the form recommended by me. In the position thus produced it was clearly incumbent upon me to certify the Bill in the form recommended. The certified Bill with the necessary recommendation was thereupon laid before the Council of State on Monday the 8th April and after consideration by that body was passed without amendment on the 16th April. On the 22nd April, 1935, I gave my assent to the Bill and for compelling reasons of an obvious nature caused to be endorsed upon the Bill a direction in the terms of the proviso to subsection (2) of section 67B of the Government of India Act.

5. In accordance with the instructions contained in your predecessor's despatch No. 61, dated the 21st December, 1869, copies of the papers relating to the Act are enclosed herewith.

I have the honour to be,

SIR,

Your most obedient, humble servant,

WILLINGDON.

No. 4.

Telegram from the Secretary of State for India to the Governor General dated 25th June, 1935.

In pursuance of section 67B of the Government of India Act I am taking steps to lay before both Houses of Parliament Indian Finance Act, 1935, which received your assent and was under your direction brought into operation forthwith, in the circumstances related in Your Excellency's despatch No. 58, dated 25th April. I approve Your Excellency's proceedings.

(30454—19) Wt. 1288—1286 625 7/35 P. St. G. 350